

**CATASTROPHIC MENTAL HEALTH COVERAGE - SUNSET
ACT**

2011 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill modifies the Insurance Code and the Legislative Oversight and Sunset Act to address catastrophic mental health coverage.

Highlighted Provisions:

This bill:

- ▶ removes a catastrophic mental health coverage provision from the Legislative Oversight and Sunset Act; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-625, as last amended by Laws of Utah 2010, Chapters 10 and 68

63I-1-231, as last amended by Laws of Utah 2010, Chapters 68 and 319

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **31A-22-625** is amended to read:

31A-22-625. Catastrophic coverage of mental health conditions.

(1) As used in this section:

(a) (i) "Catastrophic mental health coverage" means coverage in a health benefit plan that does not impose a lifetime limit, annual payment limit, episodic limit, inpatient or outpatient service limit, or maximum out-of-pocket limit that places a greater financial burden on an insured for the evaluation and treatment of a mental health condition than for the

evaluation and treatment of a physical health condition.

(ii) "Catastrophic mental health coverage" may include a restriction on cost sharing factors, such as deductibles, copayments, or coinsurance, before reaching a maximum out-of-pocket limit.

(iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket limit for physical health conditions and another maximum out-of-pocket limit for mental health conditions, except that if separate out-of-pocket limits are established, the out-of-pocket limit for mental health conditions may not exceed the out-of-pocket limit for physical health conditions.

(b) (i) "50/50 mental health coverage" means coverage in a health benefit plan that pays for at least 50% of covered services for the diagnosis and treatment of mental health conditions.

(ii) "50/50 mental health coverage" may include a restriction on:

(A) episodic limits;

(B) inpatient or outpatient service limits; or

(C) maximum out-of-pocket limits.

(c) "Large employer," is as defined in 42 U.S.C. Sec. 300gg-91.

(d) (i) "Mental health condition" means a condition or disorder involving mental illness that falls under a diagnostic category listed in the Diagnostic and Statistical Manual, as periodically revised.

(ii) "Mental health condition" does not include the following when diagnosed as the primary or substantial reason or need for treatment:

(A) a marital or family problem;

(B) a social, occupational, religious, or other social maladjustment;

(C) a conduct disorder;

(D) a chronic adjustment disorder;

(E) a psychosexual disorder;

(F) a chronic organic brain syndrome;

(G) a personality disorder;

(H) a specific developmental disorder or learning disability; or

(I) mental retardation.

(e) "Small employer" is as defined in 42 U.S.C. Sec. 300gg-91.

(2) (a) At the time of purchase and renewal, an insurer shall offer to a small employer that it insures or seeks to insure a choice between catastrophic mental health coverage and 50/50 mental health coverage.

(b) In addition to complying with Subsection (2)(a), an insurer may offer to provide:

(i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels that exceed the minimum requirements of this section; or

(ii) coverage that excludes benefits for mental health conditions.

(c) A small employer may, at its option, choose either catastrophic mental health coverage, 50/50 mental health coverage, or coverage offered under Subsection (2)(b), regardless of the employer's previous coverage for mental health conditions.

(d) An insurer is exempt from the 30% index rating restriction in Section 31A-30-106.1 and, for the first year only that catastrophic mental health coverage is chosen, the 15% annual adjustment restriction in Section 31A-30-106.1, for any small employer with 20 or less enrolled employees who chooses coverage that meets or exceeds catastrophic mental health coverage.

(3) An insurer shall offer a large employer mental health and substance use disorder benefit in compliance with Section 2705 of the Public Health Service Act, 42 U.S.C. Sec. 300gg-5, and federal regulations adopted pursuant to that act.

(4) (a) An insurer may provide catastrophic mental health coverage to a small employer through a managed care organization or system in a manner consistent with Chapter 8, Health Maintenance Organizations and Limited Health Plans, regardless of whether the insurance policy uses a managed care organization or system for the treatment of physical health conditions.

(b) (i) Notwithstanding any other provision of this title, an insurer may:

(A) establish a closed panel of providers for catastrophic mental health coverage; and

(B) refuse to provide a benefit to be paid for services rendered by a nonpanel provider unless:

(I) the insured is referred to a nonpanel provider with the prior authorization of the insurer; and

(II) the nonpanel provider agrees to follow the insurer's protocols and treatment

94 guidelines.

95 (ii) If an insured receives services from a nonpanel provider in the manner permitted by
96 Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the
97 average amount paid by the insurer for comparable services of panel providers under a
98 noncapitated arrangement who are members of the same class of health care providers.

99 (iii) This Subsection (4)(b) may not be construed as requiring an insurer to authorize a
100 referral to a nonpanel provider.

101 (c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a
102 mental health condition must be rendered:

103 (i) by a mental health therapist as defined in Section 58-60-102; or

104 (ii) in a health care facility:

105 (A) licensed or otherwise authorized to provide mental health services pursuant to:

106 (I) Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; or

107 (II) Title 62A, Chapter 2, Licensure of Programs and Facilities; and

108 (B) that provides a program for the treatment of a mental health condition pursuant to a
109 written plan.

110 (5) The commissioner may prohibit an insurance policy that provides mental health
111 coverage in a manner that is inconsistent with this section.

112 (6) The commissioner shall:

113 (a) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
114 Rulemaking Act, as necessary to ensure compliance with this section; and

115 (b) provide general figures on the percentage of insurance policies that include:

116 (i) no mental health coverage;

117 (ii) 50/50 mental health coverage;

118 (iii) catastrophic mental health coverage; and

119 (iv) coverage that exceeds the minimum requirements of this section.

120 (7) This section may not be construed as discouraging or otherwise preventing an
121 insurer from providing mental health coverage in connection with an individual insurance
122 policy.

123 ~~[(8) This section shall be repealed in accordance with Section 63I-1-231.]~~

124 Section 2. Section **63I-1-231** is amended to read:

- 125 **63I-1-231. Repeal dates, Title 31A.**
- 126 (1) Section 31A-2-208.5, Comparison tables, is repealed July 1, 2015.
- 127 (2) Section 31A-2-217, Coordination with other states, is repealed July 1, 2013.
- 128 ~~[(3) Section 31A-22-625, Catastrophic coverage of mental health conditions, is~~
- 129 ~~repealed July 1, 2011.]~~
- 130 ~~[(4)]~~ (3) Chapter 42a, Utah Statewide Risk Adjuster Act, is repealed July 1, 2016.